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OFFICE OF PETITIONS

In re Application of	:	DECISION ON
Dallmeyer et al.	:	PETITION
Application No.: 09/820887	:	
Filing or 371(c) Date: 03/30/2001	:	
Attorney Docket Number: 2001P06108US	:	

This is a decision in response to the "Petition to Withdraw Improper Notice of Abandonment," filed October 18, 2007. The petition is properly treated under 37 C.F.R. § 1.181. The delay in treating this petition is regretted.

This Petition to withdraw the holding of abandonment is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed August 19, 2004. The Office action indicated that no claims were allowed. Extensions of time under 37 CFR 1.136(a) were available.

Applicant filed an Amendment in response to the Office action on November 19, 2004. The Amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed December 6, 2004. The Advisory action set a reply period of one (1) month from the mail date of the Advisory Action, or within the reply period as set forth in the final Office action, whichever was later. (Emphasis supplied.)

No complete and proper reply having been received, the application became abandoned on January 7, 2004. A Notice of Abandonment was mailed July 13, 2005.

The present petition

Applicant files the present petition and asserts that a timely reply to the Office action, to wit – a Request for Continued Examination ("RCE"), and fee, and a two (2) month extension of time and fee; were timely filed on January 19, 2005. In support of this assertion, Applicant files a copy of the reply. Applicant also files a copy of this Office's Patent Application Information and Retrieval System (PAIR) records for the present application, which indicate that this Office received a RCE on January 19, 2005.

Office records

A review of Office records confirms that this Office received the RCE and fee, and a two (2) month extension of time request and fee, on January 19, 2005. A review of the RCE reveals that Applicant requested therein that the Amendment filed November 19, 2004 serve as the submission required by 37 CFR 1.114.

Conclusion

In view of the above, the holding of abandonment for failure to timely and properly reply to the final Office action is hereby withdrawn.

The application is being referred to Technology Center Art Unit 3726 for processing of the RCE and Amendment, in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


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